

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

RED BARN MOTORS, INC.,
DONALD B. RICHARDSON, AND
BARBARA A. RICHARDSON

VERSUS

NEXTGEAR CAPITAL, INC.
AS SUCCESSOR-IN-INTEREST TO
DEALER SERVICES CORPORATION,
LOUISIANA'S FIRST CHOICE
AUTO AUCTION, L.L.C.

**MOTION FOR LEAVE TO FILE REPLY MEMORANDUM BY NEXTGEAR CAPITAL,
INC. TO LOUISIANA'S FIRST CHOICE AUTO AUCTION'S MEMORANDUM IN
OPPOSITION TO THE MOTION TO TRANSFER AND SUPPLEMENTAL
OPPOSITION TO THE MOTION TO TRANSFER**

NextGear Capital, Inc., f/k/a Dealer Services Corporation, successor by merger with Manheim Automotive Financial Services, (incorrectly named defendant as NextGear Capital, Inc., as successor-in-interest to Dealer Services Corporation) (hereinafter “NextGear”), appearing herein through undersigned counsel, hereby moves for leave to file a reply to Louisiana’s First Choice Auto Auction’s (hereinafter “First Choice”) Memorandum in Opposition of the Motion to Transfer (“Opposition”) (R. Doc. No. 13) .and Supplemental Opposition to the Motion to Transfer (“Supplemental Opposition”)[R. Doc. No. 20].

After reviewing the Opposition and Supplemental Opposition, NextGear believes a reply memorandum is necessary. The purpose of the reply memorandum is to address a number of erroneous contentions and misinterpretations of the law by First Choice in their original Opposition [R. Doc. No. 14] and Supplemental Opposition [R. Doc. No. 20], in an effort to assist the Court in its consideration on the motion to transfer.

Plaintiffs are seeking enforcement of an agreement between the parties, which contains a forum selection clause, mandating venue in state or federal courts of Marion or Hamilton County, Indiana. Because First Choice embraced and benefited from the aforementioned agreement, this Court should follow recent precedent and enforce the clause. In the alternative, this Court should sever and transfer the claims against NextGear. Accordingly, NextGear respectfully requests that the Court grant its motion for leave to file a reply memorandum.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have on this 19th day of March 2014 served a copy of the foregoing on all counsel of record via electronic service by the court's CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

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/s/Robin B. Cheatham

Robin B. Cheatham

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CIVIL ACTION No.: 3:13-cv-00778-BAJ-RLB

VERSUS

**NEXTGEAR CAPITAL, INC.
AS SUCCESSOR-IN-INTEREST TO
DEALER SERVICES CORPORATION,
LOUISIANA'S FIRST CHOICE
AUTO AUCTION, L.L.C.**

ORDER

Considering NextGear Capital, Inc.'s Motion for Leave to file the Reply Memorandum to Louisiana's First Choice Auto Auction's Memorandum in Opposition of the Motion to Transfer and Supplemental Opposition of the Motion to Transfer,

IT IS HEREBY ORDERED that the Motion for Leave is GRANTED and that NextGear Capital Inc.'s Reply Memorandum to Louisiana's First Choice Auto Auction's Memorandum in Opposition of the Motion to Transfer and Supplemental Opposition of the Motion to Transfer be filed accordingly.

Baton Rouge, Louisiana, this ____ day of March, 2014.

UNITED STATES DISTRICT JUDGE